

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JEROME CLARKE,
GDC ID 84959,
Plaintiff/Petitioner,

V.

CIVIL ACTION NO.
1:16-CV-968-WSD-JKL

CATHELENE “TINA” ROBINSON,
Defendant/Respondent.

FINAL REPORT AND RECOMMENDATION

Without paying the \$400 due in case initiation fees or requesting permission to proceed *in forma pauperis* (“IFP”), state inmate Jerome Clarke has submitted a “Complaint/Writ of Quo Warranto or, in the Alternative, Writ of Mandamus.” *See* (Doc. 1).

Since at least 1991, Mr. Clarke has been a prolific filer of frivolous lawsuits. *See* www.pacer.gov (last viewed March 29, 2016; searched for “Clarke, Jerome” in region “11th Circuit”) (listing over 50 civil actions and appeals). *See also* *Clarke v. Donald*, No. 1:08-CV-3654-JEC (N.D. Ga. Dec. 18, 2008) (listing “strikes”); *Clarke v. Merrell*, No. 3:14-CV-125-DHB (S.D. Ga. Dec. 17, 2014) (listing additional “strikes”).

Accordingly, Mr. Clarke may no longer “bring a civil action or appeal a judgment in a civil action [IFP] . . . unless [he] is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). Like civil rights complaints, petitions for writs of mandamus are subject to the filing restrictions in § 1915(g). *See, e.g., In re Kissi*, 652 F.3d 39, 41 (D.C. Cir. 2011). Because Mr. Clarke’s latest complaint/petition does not allege that he is “under imminent danger of serious physical harm,” 28 U.S.C. § 1915(g), he is ineligible to proceed IFP in this case.

The United States Court of Appeals for the Eleventh Circuit has held that “[t]he proper procedure is for the district court to dismiss the complaint without prejudice when it denies the prisoner leave to proceed *in forma pauperis* pursuant to the three strikes provision of § 1915(g).” *Dupree v. Palmer*, 284 F.3d 1234, 1236 (11th Cir. 2002). Therefore, the undersigned **RECOMMENDS** that Mr. Clarke be **DENIED** permission to proceed IFP and that this case be **DISMISSED WITHOUT PREJUDICE**.

The undersigned further **RECOMMENDS** that this Court **CERTIFY** that any appeal in this case would not be taken in good faith and that, therefore, Mr. Clarke may not proceed IFP on appeal. *See* 28 U.S.C. § 1915(a)(3).

The Clerk is **DIRECTED** to terminate the referral of this case to the undersigned.

SO RECOMMENDED AND DIRECTED, this 29th day of March, 2016.



JOHN K. LARKINS III
UNITED STATES MAGISTRATE JUDGE